

United States Senate

WASHINGTON, DC 20510

June 24, 2020

The Honorable Ellen Lord
Under Secretary of Defense for Acquisition and Sustainment
United States Department of Defense
3010 Defense Pentagon Room 3E1010
Washington, DC 20301

Dear Under Secretary Lord:

Thank you for your efforts thus far to increase domestic manufacturing of personal protective equipment (PPE). As head of the new Joint Acquisition Task Force (JATF), we ask you to continue to prioritize the procurement of American-made PPE and pursue more comprehensive measures to incentivize the reshoring of additional PPE production back to the United States. We believe this can be done in three ways.

First, strong domestic content rules – such as the Berry Amendment – are a proven model for ensuring essential long-term investment in the PPE supply chain in the United States. Applying this domestic sourcing requirement to PPE purchases is critical to helping build a strong domestic supply chain now and into the foreseeable future.

While we were concerned to see the Defense Logistics Agency (DLA) issue a Domestic Non-Availability Determination (DNAD) — which provides the option to waive Berry Amendment requirements — for procurements over the next 90 days, we understand that DLA's immediate demand for hospital gowns and PPE may exceed the capacity of Berry Amendment-compliant U.S. producers. Yet, there are still U.S. companies who are able to produce PPE using varying amounts of American content. We believe DLA and the JATF must give priority consideration to all domestic offers to supply PPE product to the United States government.

Despite the DNAD, we believe that PPE, with value added in the United States should receive preference over entirely foreign-made PPE and urge in the contract review process that you reward those companies and workers in the United States to every extent possible. We were pleased that DLA recently amended the solicitation to take into consideration concerns raised by domestic producers by prioritizing Berry Amendment-compliant offers. We want to underscore the importance of ensuring that all DLA procurements encourage, rather than undercut, initiatives to develop a U.S.-based PPE supply chain.

To that end, we urge DLA to maximize all procurement of Berry Amendment-compliant hospital gowns and masks going forward. When Berry-compliant items are exhausted, we ask that you

maximize procurement of products that have the next-highest U.S. content level. We strongly urge you to give full preference to items made at least in part in the U.S. over those that are wholly made abroad. These orders are even more critical to the manufacturing sector at this time. Many domestic producers have submitted proposals with both full, or substantially, domestic production chains, and we urge the Department in this contract review process to give all these offers the fullest consideration possible.

Second, we must think long term. Unfortunately, the pandemic will not have ended after 90 days, and we know that our country must be prepared for similar crises in the future. In order to achieve that, the Task Force must send a strong, and consistent, demand signal to American industry so as to incentivize the re-shoring of PPE production to the United States. Supply chains that were created in a matter of days will disappear if we do not put the long-term structures in place that will help realize significant investment in the United States. Therefore, we urge the JATF to ensure any future PPE procurement includes long-term contracts and minimizes the use of DNADs. Applying such a strategic approach will provide U.S. producers sufficient time and certainty to expand existing production or bring new production online.

Third, the administration should use the full range of powerful authorities provided in the Defense Production Act (DPA) which it has already triggered to bolster American manufacturers' ability to produce urgently needed medical equipment and supplies. If the DPA loan and purchase authorities recently delegated to the International Development Finance Corporation prove effective for PPE re-shoring efforts, they should also be used to bolster such domestic capacity.

Made-in-America PPE is absolutely vital to the success of our pandemic response. We thank you for your leadership during this time of crisis and look forward to working with you to ensure the expansion of PPE manufacturing capacity in the United States of America.

Sincerely,

/s/Rob Portman

Rob Portman
United States Senator

/s/Mike Braun

Mike Braun
United States Senator

/s/Sherrod Brown

Sherrod Brown
United States Senator

/s/Michael F. Bennet

Michael F. Bennet
United States Senator

/s/Josh Hawley

Josh Hawley
United States Senator

/s/Todd Young

Todd Young
United States Senator

/s/John Cornyn

John Cornyn
United States Senator

/s/Christopher A. Coons

Christopher A. Coons
United States Senator

/s/Lindsey O. Graham

Lindsey O. Graham
United States Senator

/s/Debbie Stabenow

Debbie Stabenow
United States Senator